

fact that two or three Members who have time are not here, I move that the Committee do now rise. . . .

THE CHAIRMAN: <sup>(2)</sup> The question is on the motion offered by the gentleman from New York [Mr. Andrews] that the Committee do now rise.

The question was taken; and on a division (demanded by Mr. Andrews of New York) there were—ayes 79, noes 94.

MR. ANDREWS of New York: Mr. Chairman, I ask for tellers.

Tellers were ordered, and The Chairman appointed as tellers Mr. Andrews of New York and Mr. Smathers.

The Committee again divided; and the tellers reported there were—ayes 76, noes 139.

So the motion was rejected.

### ***Withdrawal***

#### **§ 22.9 A privileged motion that the Committee of the Whole rise may be withdrawn by unanimous consent.**

On Oct. 28 1971,<sup>(3)</sup> during consideration of H.R. 7248 to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, the motion that the Committee of the Whole rise was withdrawn by unanimous consent.

MR. [THOMAS M.] PELLY [of Washington]: Mr. Chairman, I move that the Committee do now rise.

2. Francis H. Case (S.D.).

3. 117 CONG. REC. 38071, 92d Cong. 1st Sess.

THE CHAIRMAN: <sup>(4)</sup> The gentleman is seeking to propound a parliamentary inquiry?

MR. PELLY: I am not, Mr. Chairman. I have a privileged motion. I move that the Committee do now rise. . . .

THE CHAIRMAN: Does the gentleman from Washington insist upon his motion?

MR. PELLY: Mr. Chairman, I withdraw my motion.

THE CHAIRMAN: Without objection, the motion is withdrawn.

There was no objection.

### **§ 23.—When in Order**

The motion to rise is preferential<sup>(5)</sup> and is in order pending a count of a quorum<sup>(6)</sup> or pending a decision on a point of order.<sup>(7)</sup> It is also in order after tellers have been ordered and appointed, though not after the count has begun.<sup>(8)</sup> However, the motion will not lie during a division<sup>(9)</sup> or while another Member has the floor in debate.<sup>(10)</sup> A decision by

4. James C. Wright, Jr. (Tex.).

5. § 23.1, *infra*.

6. § 23.5, *infra*.

7. §§ 23.7, 23.8, *infra*.

8. § 23.9, *infra*; compare 5 Hinds' Precedents § 6001 and 4 Hinds' Precedents § 4773, which indicate that, tellers having been ordered and appointed, the motion to rise is not in order pending the taking of the vote.

9. § 23.11, *infra*.

10. § 23.6, *infra*; 4 Hinds' Precedents § 4769; and 8 Cannon's Precedents § 2325.

The Chairman that a motion to rise was in order after a Member had been recognized for debate but before he had begun to speak was overruled by the Committee.<sup>(11)</sup>

The point of order that the motion is dilatory may be raised in the Committee of the Whole.<sup>(12)</sup>

When provision is made by special order for the automatic rising of the Committee of the Whole at a designated time, a motion is required to rise before that time, and is in order.<sup>(13)</sup> However, when the hour previously fixed for adjournment of the House arrives while the Committee of the Whole is still in session, The Chairman may direct the Committee to rise and make his report as though the Committee had risen on motion in the regular way.<sup>(14)</sup> And when the House has limited general debate to a time certain and provided for the Committee of the Whole to rise at the conclusion of that time, the Committee then rises without a motion or vote.<sup>(15)</sup>

The motion to rise and report has precedence over the motion to take up another bill.<sup>(16)</sup> The mo-

tion to amend has precedence over the motion to rise and report a bill with recommendations<sup>(17)</sup> but not over the simple motion to rise.<sup>(18)</sup>

The motion to rise and report with the recommendation that the bill be recommitted takes precedence over the motion to rise and report with the recommendation that the bill pass,<sup>(19)</sup> when the Committee of the Whole is operating under the general rules of the House.

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### *Privileged Nature*

#### **§ 23.1 The motion that the Committee of the Whole rise is privileged.**

On July 23, 1970,<sup>(20)</sup> during consideration of H.R. 18515, providing appropriations for the Departments of Labor and Health, Education, and Welfare for fiscal year 1971, Chairman Chet Holifield, of California, referred to the privileged nature of the motion that the Committee of the Whole rise.

MR. [SIDNEY R.] YATES [of Illinois]:  
Mr. Chairman, a parliamentary inquiry.

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11. 8 Cannon's Precedents § 2370.

12. 8 Cannon's Precedents § 2800.

13. 7 Cannon's Precedents § 793.

14. 4 Hinds' Precedents § 4785.

15. See § 21.3, *supra*.

16. 4 Hinds' Precedents § 4766.

17. § 23.14, *infra*.

18. 4 Hinds' Precedents § 4770.

19. 8 Cannon's Precedents § 2329.

20. 116 CONG. REC. 25628, 91st Cong. 2d Sess.

Is it in order for me to move that the Committee do now rise?

THE CHAIRMAN: It is a privileged motion.

MR. YATES: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Illinois.

The question was taken; and The Chairman announced that the noes appeared to have it.

MR. YATES: Mr. Chairman, I demand tellers.

Tellers were ordered, and The Chairman appointed as tellers Mr. Yates and Mr. Flood.

The Committee divided, and the tellers reported that there were—ayes 8, noes 93.

So the motion was rejected.

*Parliamentarian's Note:* While a motion that the Committee of the Whole rise is privileged, it cannot be made while another Member has the floor, but can be offered any time when the proponent thereof can secure the floor in his own right.

**§ 23.2 A motion that the Committee of the Whole rise is of high privilege, and may be offered by a Member who holds the floor by virtue of having offered an amendment.**

On Nov. 15, 1967,<sup>(1)</sup> during consideration of S. 2388, Economic

1. 113 CONG. REC. 32694, 90th Cong. 1st Sess.

Opportunity Act Amendments of 1967, Chairman John J. Rooney, of New York, made reference to the right of a Member who holds the floor by virtue of having offered an amendment to offer the privileged motion that the Committee rise.

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jones of Missouri: On page 219 strike out all of line 17 through line 24.

MR. JONES of Missouri: Mr. Chairman, I make a parliamentary inquiry at this time.

THE CHAIRMAN: The gentleman will state it.

MR. JONES of Missouri: Would I be in order to make a motion that the Committee do now rise so that if we could get back into the House I could make a motion to adjourn?

THE CHAIRMAN: A motion that the Committee do now rise is a privileged motion.

MR. JONES of Missouri: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Missouri.

The motion was rejected.

**§ 23.3 A motion that the Committee rise is privileged during consideration of a bill under the five-minute rule and takes precedence over pending amendments.**

On Apr. 30, 1970,<sup>(2)</sup> during consideration of H.R. 17123, the military procurement authorization for fiscal year 1971, Chairman Daniel D. Rostenkowski, of Illinois, indicated that the motion that the Committee rise was privileged and would take precedence over certain pending amendments.

*Parliamentarian's Note:* During consideration of this measure under the five-minute rule, amendments were offered with respect to use of funds to support ground combat troops in Cambodia, Laos, and Thailand. When it became apparent during lengthy debate on these amendments that many Members wished to defer action on the amendment until the President had concluded a policy statement on Southeast Asia which had been scheduled for delivery on nationwide television that evening, several Members approached the manager of the bill, L. Mendel Rivers, of South Carolina, Chairman of the Committee on Armed Services, to urge the Committee's rising without completing action on the bill. When the Chairman declined to make the motion, Mr. Edward P. Boland, of Massachusetts, who was not on the Committee on Armed Services, sought recognition to make the motion.

MR. BOLAND: Mr. Chairman, a parliamentary inquiry.

2. 116 CONG. REC. 13784, 91st Cong. 2d Sess.

THE CHAIRMAN: The gentleman will state it.

MR. BOLAND: Mr. Chairman, is it in order to move that the Committee do now rise?

THE CHAIRMAN: Yes; it is in order.

MR. BOLAND: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Massachusetts.

MR. RIVERS: Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Boland and Mr. Rivers.

The Committee divided and the tellers reported that there were—ayes 131, noes 100.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Rostenkowski, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, had come to no resolution thereon.

**§ 23.4 The motion that the Committee of the Whole rise is privileged and in order notwithstanding the announcement of an “informal**

**agreement” among floor managers of a bill with respect to concluding consideration of the bill on that day at a different time.**

On Oct. 28, 1971,<sup>(3)</sup> during consideration of H.R. 7248, to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, Chairman James C. Wright, Jr., of Texas, refused to entertain a parliamentary inquiry as to whether the motion that the Committee of the Whole rise would be in order notwithstanding an informal agreement to conclude consideration of a bill on that day at a different time.

MRS. [EDITH S.] GREEN of Oregon (during the reading): Mr. Chairman, I ask unanimous consent, that title VIII be considered as read, printed in the Record, and open to amendment at any point.

THE CHAIRMAN: Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

MRS. GREEN of Oregon: Mr. Chairman, I move that the Committee do now rise. . . .

MR. [ROMAN C.] PUCINSKI [of Illinois]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. PUCINSKI: It was my impression that earlier today the Chair stated the

agreement we had was that we were going to go through title VIII or until 6 o'clock, whichever came later. I was under the impression that that was the agreement, so a number of members of the Veterans' Affairs Committee have remained since we have an amendment to title VIII. I just wonder what happened to that agreement.

THE CHAIRMAN: The Chair will state to the gentleman that the gentlewoman from Oregon has made a motion that the Committee do now rise. That is a privileged motion, that the Chair must put the motion.

MR. PUCINSKI: Mr. Chairman, a further parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. PUCINSKI: It is correct, then, to assume that the motion does somewhat contravene and contradict the agreement that was made?

THE CHAIRMAN: The Chair cannot entertain that as a parliamentary inquiry.

The question is on the motion that the Committee do now rise.

The motion was agreed to.

### ***Pending Count of Quorum***

#### **§ 23.5 Pending the (Chair's count of a quorum, a motion that the Committee of the Whole rise is in order; that motion does not require a quorum for its adoption.**

On June 4, 1948,<sup>(4)</sup> during consideration of H.R. 6801, the for-

3. 117 CONG. REC. 38078, 92d Cong. 1st Sess.

4. 94 CONG. REC. 7178, 80th Cong. 2d Sess.

eign aid appropriations bill, Chairman W. Sterling Cole, of New York, stated that the motion to rise is in order pending the Chair's count of a quorum.

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I move that the Committee rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York.

MR. TABER: Mr. Chairman, on that I demand tellers.

MR. COOLEY: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COOLEY: Is the motion of the gentleman from New York in order pending the determination as regards the presence of a quorum?

THE CHAIRMAN: The gentleman's motion is in order. A quorum is not necessary upon a motion that the Committee rise.

Tellers were ordered, and the Chairman appointed as tellers Mr. Taber and Mr. Cannon.

The Committee divided; and the tellers reported that there were-aye 1, noes 64.

So the motion was rejected.

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*Parliamentarian's Note:* This principle is now expressly provided under Rule XV clause 6(b), *House Rules and Manual* § 774(c) (1979).

### ***While Another Member Has Floor***

#### **§ 23.6 In the Committee of the Whole a Member may not move to rise while another has the floor.**

On Mar. 12, 1964,<sup>(5)</sup> during consideration of H.R. 8986, the pay bill for federal employees, Chairman Chet Holifield, of California, indicated that a Member may not move, while another Member has the floor, that the Committee of the Whole rise, unless time is yielded to him for that purpose.

MR. [ROBERT J.] CORBETT [of Pennsylvania]: I was going to try to explain the amendment a little bit, but the gentleman is using up all my time. Go ahead.

THE CHAIRMAN: Does the gentleman yield for a parliamentary inquiry?

MR. CORBETT: I yield to the gentleman.

THE CHAIRMAN: The gentleman is recognized.

MR. [AUGUST E.] JOHANSEN [of Michigan]: Would a motion that the Committee rise be in order at this time?

THE CHAIRMAN: If the gentleman from Pennsylvania yields for that purpose.

MR. CORBETT: Mr. Chairman, I cannot yield further. I probably only have 3 minutes left.

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5. 110 CONG. REC. 5101, 88th Cong. 2d Sess.

***Pending Decision on Point of Order***

**§ 23.7 In the Committee of the Whole a motion that the Committee rise may be entertained pending a decision of the Chair on a point of order.**

On June 4, 1957,<sup>(6)</sup> during consideration of H.R. 6974, extending the Agricultural Trade Development and Assistance Act of 1954, Chairman Brooks Hays, of Arkansas, stated that a motion that the Committee of the Whole rise was made pending the Chair's decision on a point of order.<sup>(7)</sup>

**§ 23.8 A point of order having been raised in the Committee of the Whole against a bill reported by a committee without jurisdiction to propose an appropriation under Rule XXI, the Committee rose pending decision by the Chair on the point of order.**

On June 4, 1957,<sup>(8)</sup> during consideration of H.R. 6974, extending the Agricultural Trade Develop-

ment and Assistance Act of 1954, the Committee of the Whole rose pending a decision by the Chairman on a point of order that the bill which proposed an appropriation had been reported by a committee contrary to Rule XXI clause 4.<sup>(9)</sup>

MR. [JOHN J.] RODNEY [of New York]: Mr. Chairman, I rise to a point of order against the entire bill, H.R. 6974, on the ground that it is a bill from a committee not having authority to report an appropriation. . . .

MR. [HAROLD D.] COOLEY [of North Carolina]: . . . I am a little bit apprehensive that the point of order may be sustained, if the Chair is called upon to rule on it. But, I think it would be very unfortunate for us to delay final action on the bill, and in the circumstances we have no other alternative other than to move that the Committee do now rise, and so, Mr. Chairman, I make that motion.

THE CHAIRMAN:<sup>(10)</sup> The Chair is prepared to rule on the point of order, but the motion offered by the gentleman from North Carolina that the Committee do now rise is in order, and the Chair will put the question.

The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Hays of Arkansas, Chairman of the Committee of the Whole House on

6. 103 CONG. REC. 8298, 8318, 8319, 85th Cong. 1st Sess. See 105 CONG. REC. 9027, 9028, 86th Cong. 1st Sess., May 25, 1959, for another illustration of this principle.

7. See §23.8, *infra*, for the proceedings of this date.

8. 103 CONG. REC. 8298, 8318, 8319, 85th Cong. 1st Sess.

9. See Rule XXI clause 5, *House Rules and Manual* §846 (1979).

10. Brooks Hays (Ark.).

the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6974) to extend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes, had come to no resolution thereon.

*Parliamentarian's Note:* In this case the language of the bill was in violation of the provisions of then Rule XXI clause 4 (now clause 5). The Member in charge of the bill moved that the Committee rise to permit application to the Committee on Rules for a resolution waiving points of order against the bill. The rule granted was House Resolution 274.

### ***Before Tellers Begin Count***

#### **§ 23.9 A vote by tellers having been ordered and appointed in the Committee of the Whole, a motion that the committee rise is in order if the tellers have not taken their places and the count has not begun.**

On Mar. 12, 1942,<sup>(11)</sup> during consideration of H.R. 6709, the agriculture appropriations bill for fiscal year 1943, Chairman Robert Ramspeck, of Georgia, indicated that a motion that the Committee

of the Whole rise is in order after a vote by tellers has been ordered and tellers have been appointed if the tellers have not taken their places and begun the count.

THE CHAIRMAN: The gentleman from South Dakota [Mr. Case] offers a substitute for the Dirksen amendment.

The Clerk will report the substitute. The Clerk read as follows:

Amendment offered by Mr. Case of South Dakota as a substitute for the amendment offered by Mr. Dirksen: Page 80, line 21, strike out "\$45,000,000" and insert "\$25,000,000."

THE CHAIRMAN: The question is on the substitute offered by the gentleman from South Dakota.

The question was taken; and the Chair being in doubt the Committee divided, and there were—ayes 84, noes 88.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. Case of South Dakota and Mr. Tarver.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I move that the Committee do now rise.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. MARTIN of Massachusetts: The gentleman cannot interrupt a vote.

THE CHAIRMAN: The vote has not started.

MR. MARTIN of Massachusetts: We had already started to vote on the substitute and the Chair had announced the vote as 84 to 88.

11. 88 CONG. REC. 2374, 77th Cong. 2d Sess. See 88 CONG. REC. 5169, 77th Cong. 2d Sess., June 11, 1942, for another illustration of this principle.



THE CHAIRMAN: The tellers had not taken their places.

The point of order is overruled.

MR. MARTIN of Massachusetts: Mr. Chairman, we had started the vote when the first voice vote was taken.

THE CHAIRMAN: The point of order is overruled.

The gentleman from Georgia moves that the Committee do now rise.

The question is on the motion.

### ***During Time for Debate***

#### **§ 23.10 The motion to rise is in order after agreement to a motion to limit debate on an amendment.**

On Feb. 8, 1950,<sup>(12)</sup> during consideration of H.R. 2945, to adjust postal rates, Chairman Chet Holifield, of California, indicated that a motion that the Committee of the Whole rise was in order after agreement to a time limit on debate on an amendment.

MR. [THOMAS J.] MURRAY of Tennessee: Mr. Chairman, I move that all debate on the committee substitute and all amendments thereto close in 20 minutes.

THE CHAIRMAN: The question is on the motion,

The question was taken; and on a division (demanded by Mr. Sutton) there were—ayes 99, noes 76.

MR. [ROBERT J.] CORBETT [of Pennsylvania]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Murray of Tennessee and Mr. Corbett.

The Committee again divided; and the tellers reported there were—ayes 133, noes 72.

So the motion was agreed to.

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. FULTON: Is a motion that the Committee do now rise in order at this time?

THE CHAIRMAN: Such a motion would be in order.

MR. FULTON: Mr. Chairman, I move that the Committee do now rise.

The question was taken; and on a division (demanded by Mr. Fulton) there were—ayes 76, noes 125.

MR. FULTON: Mr. Chairman. I ask for tellers.

Tellers were refused.

So the motion was rejected.

### ***During Division Vote***

#### **§ 23.11 The motion that the Committee of the Whole rise is not preferential while the Committee is dividing on a question.**

On Dec. 8, 1944,<sup>(13)</sup> during a division vote on a motion to close debate on H.R. 5587, the first supplemental appropriations bill, 1944, Chairman Herbert C.

12. 96 CONG. REC. 1690, 81st Cong. 2d Sess.

13. 90 CONG. REC. 9066, 78th Cong. 2d Sess.

Bonner, of North Carolina, refused to recognize a Member for a motion that the Committee of the Whole rise.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I move that all debate on this amendment do now close.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I trust the gentleman will not press that motion.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York [Mr. Taber].

The question was taken, and the Chair announced that the ayes had it.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I ask for a division.

THE CHAIRMAN: Those in favor of the motion will rise and be counted.

MR. RANKIN: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The Chair calls the attention of the gentleman to the fact that we are in the middle of a vote.

MR. RANKIN: Mr. Chairman, I am offering a preferential motion. I move that the Committee do now rise.

THE CHAIRMAN: The Chair will ask the gentleman to reconsider, because we are in the midst of taking a vote on a motion at this time.

MR. RANKIN: Mr. Chairman, I am offering a preferential motion now.

THE CHAIRMAN: The Chair cannot recognize the gentleman at this time for that purpose.

The question is on the motion offered by the gentleman from New York [Mr. Taber].

### ***During Consideration of Bill Under Special Rule***

#### **§ 23.12 A motion that the Committee of the Whole rise and**

**report a bill back to the House with the recommendation that it be recommitted to the committee from which reported is not in order if the bill is being considered under a special rule which provides that, after consideration and upon the automatic rising of the Committee of the Whole, the previous question shall be considered as ordered on the bill and amendments thereto to final passage.**

On Aug. 10, 1950,<sup>(14)</sup> the Committee of the Whole was considering H.R. 9176, the Defense Production Act of 1950, under a special rule which provided as follows:<sup>(15)</sup>

*Resolved*, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 9176) to establish a system of priorities and allocations for materials and facilities . . . and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 1 day, to be equally divided and controlled by the

14. 96 CONG. REC. 12219, 81st Cong. 2d Sess.

15. See H. Res. 740, 96 CONG. REC. 11606, 81st Cong. 2d Sess., Aug. 1, 1950.

chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Banking and Currency now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of such consideration the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

During the proceedings, Mr. John E. Rankin, of Mississippi, made a motion that the Committee rise and report the bill back to the House with the recommendation that it be recommitted. The Chairman, Howard W. Smith, of Virginia, in ruling on a point of order against the motion, indicated that the motion was precluded under the terms of the special rule. The motion and ruling were as follows:

MR. RANKIN: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Rankin moves that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further hearings and study.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. PATMAN: Mr. Chairman, I make the point of order that this being a straight motion to recommit, without instructions, it is not permissible under the rule under which we are considering the bill in Committee.

THE CHAIRMAN: The Chair is ready to rule. That motion is not in order in Committee of the Whole, and the Chair sustains the point of order.

MR. RANKIN: Mr. Chairman, it is in order to make a motion that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further study and hearing.

THE CHAIRMAN: In the consideration of this bill the Committee of the Whole is operating under a special rule which lays down the conditions under which the bill is to be considered. The motion of the gentleman from Mississippi is not in order at this time.

*Parliamentarian's Note:* An earlier precedent (see 8 Cannon's Precedents §2375) indicated a contrary view. The Chair in that instance held that a special rule, whose provisions were not materially different from those of House Resolution 740, above, did not de-

prive the Committee of the Whole of the right to report with a recommendation to recommit the bill under consideration at the end of reading for amendment. The Chair on that occasion, however, incorrectly overruled a point of order made by Mr. Clarence Cannon, of Missouri, who argued that at the conclusion of the amendment process the Committee of the Whole rises automatically under the terms of such a special rule and reports the bill to the House with adopted amendments, and that a motion to that end is not necessary. The modern practice, as shown in the ruling of Chairman Smith, above, is to disallow motions in Committee of the Whole that, if adopted, would effectively contravene the terms of the special rule that order the previous question on the bill and amendments thereto, to final passage at the conclusion of the amendment process under the five-minute rule, and that protect the motion to recommit, as guaranteed by clause 4 Rule XVI, only after amendments are disposed of in the House and pending final passage.

***Precedence Over Motion to Strike Enacting Clause***

**§ 23.13 A motion that the Committee of the Whole do now**

**rise takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken out.**

On May 24, 1967,<sup>(1)</sup> during consideration of H.R. 7819, the Elementary and Secondary Education Act Amendments of 1967, Chairman Charles M. Price, of Illinois, addressed the question whether the motion that the Committee of the Whole rise takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken out.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hays moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

THE CHAIRMAN: The question is on the preferential motion offered by the gentleman from Ohio [Mr. Hays].

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Kentucky [Mr. Perkins].

1. 113 CONG. REC. 13876, 13877, 90th Cong. 1st Sess. See 82 CONG. REC. 1600, 75th Cong. 2d Sess., Dec. 15, 1937, for another illustration of this principle.

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. JONES of Missouri: Does not a preferential motion require a vote before the Chair can accept another motion?

THE CHAIRMAN: No. A motion to rise takes precedence over any other motion.

The question is on the motion offered by the gentleman from Kentucky [Mr. Perkins].

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Perkins and Mr. Goodell.

The Committee divided and the tellers reported that there were—ayes 127, noes 186.

So the motion was rejected.

THE CHAIRMAN: The question is on the preferential motion.

MR. JONES of Missouri: Mr. Chairman I demand tellers.

Tellers were refused.

THE CHAIRMAN: The question is on the preferential motion.

The preferential motion was rejected.

### ***Precedence of Motion to Amend Over Motion to Rise and Report***

**§ 23.14 A motion to amend in the Committee of the Whole takes precedence over a motion to rise and report a bill with recommendations.**

On July 27, 1937,<sup>(2)</sup> during consideration of H.R. 7730, to authorize the President to appoint administrative assistants, Chairman Wright Patman, of Texas, ruled on the precedence of a motion to amend over a motion to rise.

Mr. Robinson of Utah and Mr. Collins rose.

MR. [J. W.] ROBINSON of Utah: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the motion that it is not in order at this stage of the proceedings.

THE CHAIRMAN: The Chair may state that motions to amend take precedence over a motion that the Committee rise.

## **§ 24.—Offering the Motion**

A Member with the floor generally yields for debate only, since in yielding for a motion or amendment he may lose the floor. The principle that a Member may not, in time yielded for debate, make a motion to rise is based on the consideration that, if amendments or motions were allowed in time yielded for debate, control would shift and the Chair would be deprived of his power of recognition.

2. 81 CONG. REC. 7699, 75th Cong. 1st Sess.